

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

VERNON WAIT, Register No. 151620,)
Plaintiff,)
v.) No. 08-4012-CV-C-SOW
DR. SETHI, et al.,)
Defendants.)

ORDER

On January 21, 2009, United States Magistrate Judge William A. Knox recommended dismissing plaintiff's claims. The parties were advised they could file written exceptions to the recommendation, pursuant to 28 U.S.C. § 636(b)(1)(C). No exceptions have been filed.

A review of the record convinces the court that the recommendation of the Magistrate Judge is correct and should be adopted.

Inmates who file an appeal with the United States Court of Appeals for the Eighth Circuit are required to pay the full \$455.00 appellate filing fee, regardless of the outcome of the appeal. Henderson v. Norris, 129 F.3d 481, 484 (8th Cir. 1997). The filing of a notice of appeal is considered a consent by the inmate to allow prison officials to deduct an initial partial appellate filing fee and later installments from the prisoner's account.

IT IS, THEREFORE, ORDERED that the recommendations of January 21, 2009, are adopted. [33, 34] It is further

ORDERED that plaintiff's claims against defendants David Vlach, M.D., and A.E. Daniel, M.D., are dismissed, without prejudice, pursuant to Rule 4(m), Federal Rules of Civil Procedure. [19, 25] It is further

ORDERED that defendant Sethi's motion of November 20, 2008, to dismiss for plaintiff's failure to exhaust administrative remedies is granted. [30] It is further

ORDERED that the remaining claims against the Missouri Department of Corrections are dismissed. [32]

/s/Scott O. Wright
SCOTT O. WRIGHT
Senior United States District Judge

Dated: February 23, 2009